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Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Application of

DAVID A. RINGER

Application for Construction  
Permit for a new FM Station,  
Channel 280A, Westerville,  
Ohio

FM EXAMINERS

File No. BPH-911230MA

FEB 5 2 36 PM  
AUDIO SERIAL  
UNIT 1

TO: Chief, Mass Media Bureau

application anyway. In his Petition for Reconsideration, the applicant argued inter alia, that Section 73.215 of the Commission's Rules permitted him to use a directional antenna to protect other FM stations. In addition, the applicant asserted that Section 73.213 of the Commission's Rules "grandfathered" old allotments and provided flexibility for stations operating under these old allotments to change their transmitter sites and operating facilities.<sup>3</sup>

The Commission correctly rejected the applicant's arguments. The Commission pointed out that it is its established practice to remove existing vacant FM allotments that do not meet minimum mileage separation requirements.<sup>4</sup> The Commission also asserted that Section 73.213's "grandfather" provisions apply to short-spaced stations and not short-spaced allotments.<sup>5</sup> Additionally, the Commission reaffirmed that Section 73.215, the directional antenna rules, are not intended to be used to justify short-spaced allotments.

Salov has no pertinence whatsoever to this proceeding. First, unlike the allotment in Salov, the Westerville, Ohio, allotment is not short-spaced. Therefore, under the provisions of Section 73.215, Ringer has properly filed an

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<sup>3</sup> Salov, at ¶ 10, 11.

<sup>4</sup> Id. at ¶ 15.

<sup>5</sup> Id. at ¶ 17.

application to eliminate its short-spaced site through the use of a directional antenna. Secondly, as a result of the Commission adopting a power increase from 3 kilowatts to 6 kilowatts for all Class A FM stations, the Commission permitted newly created short-spaced stations to employ the provisions of Section 73.213(c).<sup>6</sup> Therefore, since Ringer's proposed site does not meet the spacing requirements with regard to WTTF-FM, Ringer has properly employed the provisions of Section 73.213(c).<sup>7</sup> Ringer's application fully complies with the Commission's Rules pursuant to both Section 73.215 and 73.213(c).

Ringer continues to stand by the arguments he made in his Opposition to Petition to Deny filed on April 8, 1992,

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<sup>6</sup> Second Report and Order, 4 FCC Rcd 6375 (1989). Section 73.213(c) states in part: "If the reference coordinates of an allotment are short-spaced to an authorized facility or another allotment (as a result of the revision of Section 73.207 in the Second Report and Order in

and again asks that ORA's Supplement be dismissed without consideration.

Respectfully submitted,

DAVID A. RINGER

By: 

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February 4, 1993

WESTERVILLE/PN/OPSUPPET.DEN

**CERTIFICATE OF SERVICE**

I, Patricia A. Neil, a secretary in the law firm of Smithwick, & Belendiuk, P.C., certify that on this 4th day of February, 1993, copies of the foregoing were mailed, postage prepaid, to the following:

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\*by hand